

## **QUESTIONS AND ANSWERS**

### **Who commissioned this report and what was its purpose?**

CalPERS commissioned a special review of placement agent matters in the fall of 2009, after CalPERS discovered large placement agent fees were paid on its business. CalPERS hired the law firm of Steptoe & Johnson.

The purpose was to examine whether the CalPERS fund was harmed by the use of placement agents and related activities, to pursue remedies addressing any harm, and to make recommendations going forward for action.

### **How is this report considered independent, if the law firm was hired by CalPERS?**

Steptoe was given no limitations on the scope of the review or the work conducted. The law firm indicated in the report that the special review "requested and received universal and unlimited cooperation from CalPERS and its current employees and substantial assistance from its external money managers and investment consultants as well as certain placement agents and others."

### **How extensive was the investigation?**

It collected roughly 70 million pages of information, from over 400 custodians within CalPERS and beyond. More than 140 people were interviewed, many more than once, including current and former Board members, over 100 current and former staff members and executives, a number of external money managers, investment consultants, and placement agents.

### **What has CalPERS already done to address these issues and what else is it planning?**

Twelve significant steps have been taken to safeguard CalPERS, including:

- Advancing a State law that requires placement agents to register as lobbyists and prohibits them from being paid fees based on whether CalPERS invests with their clients
- Creating an Enterprise Risk Management Office and the position of Chief Risk Officer with overarching responsibility for risk management throughout CalPERS
- Creating an ethics helpline to help identify fraud, waste and abuse
- Posting conflict of interest forms and travel costs on the CalPERS website
- Establishing stringent new procedures when traveling for meetings with investment managers, including prohibiting staff from accepting gifts of entertainment and meals held apart from business meetings

- Establishing new rules for communications between Board Members and staff about investment proposals and contracts
- Granting new authority to discipline Board Members who violate policy
- Conducting periodic audits to ensure compliance with CalPERS policies and regulations that preclude use of the fund's money for payment of placement agent fees
- Seeking greater transparency from investment partners about the cost of advisory board and annual meetings
- Enhancing the process of responding to Public Records Act requests
- Proposing new policies permitting outside consultants to fulfill only one of two roles – either offering opinions on the merits of an investment proposal or assisting in the monitoring of the investment once CalPERS makes it. Investment consultants should be precluded from performing money management functions and a consulting role.
- Obtaining, through the special review, over \$200 million in fee concessions from leading external managers, and an additional \$100 million in fee reductions from a number of other large external money managers, with these managers agreeing to not use a placement agent when seeking CalPERS business in the future.
- Instituting a new Contract Related Disclosure Policy to help ensure that the contracting process is impartial by disclosing the circumstances that may create actual, potential, or perceived conflicts of interest or bias. The Policy applies to all new contracts and amendments to existing contracts (including contract extensions), letters of engagement, consulting purchase orders and similar agreements and to bidders' proposals across the System where the total amount of agreement is \$10,000 or more. CalPERS will be adding a regulation for this new policy.

CalPERS continues to assess other remedies it may have and remains committed to assisting law enforcement authorities that continue to pursue their own investigations and actions against those that may have harmed the interests of the fund.

**What assurance do members have that those who may have been involved in wrongdoing are held accountable?**

We have assisted federal and state authorities looking into these matters; in addition we are evaluating claims and remedies that CalPERS may have against those involved in some of these activities.

**How could these episodes go on without CalPERS knowledge?**

The findings of the special review were that much of what is alleged occurred away from CalPERS. The special review indicated that although the failures of individuals, rather than CalPERS policies, were what damaged CalPERS and

gave rise to the need for the special review, the best policies and procedures should always anticipate that individuals may fail to live up to their ethical and fiduciary obligations.

**Did the \$4 million paid by Medco to Al Villalobos end up being charged to CalPERS in the form of increased costs of drugs?**

CalPERS conducts rigorous audits and evaluates the cost of prescription drugs, administrative fees, rebates and dispensing fees as a routine part of our Medco contract. We have not detected any indication of fees being passed on to CalPERS in the form of increased drug pricing.

**What assurance does CalPERS have that there are not yet more instances of the type described regarding payment to placement agents?**

CalPERS Board President, the State Treasurer and State Controller advanced legislation signed into law that requires placement agents doing business at CalPERS must register as lobbyists and are prevented from being paid contingency fees for the work. As lobbyists they are also prevented from giving gifts of more than \$10 in connection with their solicitation of business.

**What other contracts are being checked to ensure that this type of activity didn't also occur with other contracts let by CalPERS?**

In December 2010, CalPERS instituted a new Contract Related Disclosure Policy. The goal of this Policy is to help ensure that the CalPERS contracting process is impartial by disclosing the circumstances that may create actual, potential, or perceived conflicts of interest or bias.

The Policy applies to all new contracts and amendments to existing contracts (including contract extensions), letters of engagement, consulting purchase orders and similar agreements and to bidders' proposals across the System where the total amount of agreement is \$10,000 or more.

Similar to the placement agency policy, CalPERS will be adding a regulation for this new policy.